

UNITED STATES DISTRICT COURT  
DISTRICT OF MASSACHUSETTS

RICHARD ZAGARELLA,  
Plaintiff,

v.

CIVIL ACTION NO.  
18-12414-NMG

CALIBER HOME LOANS and  
U.S. BANK TRUST NATIONAL ASSOCIATION,  
Defendants.

REPORT AND RECOMMENDATION RE:  
DEFENDANTS CALIBER HOME LOANS'S AND U.S. BANK TRUST NATIONAL  
ASSOCIATION'S MOTION FOR JUDGMENT ON THE PLEADINGS  
(DOCKET ENTRY # 17)

June 7, 2019

BOWLER, U.S.M.J.

Pending before this court is a motion for judgment on the pleadings filed by defendants Caliber Home Loans<sup>1</sup> and U.S. Bank

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<sup>1</sup> Defendant Caliber Home Loans identifies itself as Caliber Home Loans, Inc. and points out that the complaint refers to this entity incorrectly as Caliber Home Loans. Under Fed. R. Civ. P. 10(a), "The title of the complaint must name all the parties." A court may nevertheless "identify the proper party to a suit through analysis and examination of the allegations set forth in the body of the complaint." Callahan v. Wells Fargo & Co., 747 F. Supp. 2d 247, 251 (D. Mass. 2010). The body of the complaint identifies Caliber Home Loans as a corporation and a number of attached documents refer to this entity as Caliber Home Loans, Inc. (Docket Entry # 1-1, pp. 10, 50, 52) (Docket Entry # 1-5, p. 2). Accordingly, defendant Caliber Home Loans, Inc. ("Caliber") is the intended defendant in the complaint. See In re Asacol Antitrust Litig., Civil Action No. 15-12730-DJC, 2016 WL 4083333, at \*3 n.1 (D. Mass. July 20, 2016) (because "complaint makes clear that Warner Chilcott Company LLC is an intended party, the Court considered it named and analyzed the motions accordingly"). Likewise, the body of the complaint repeatedly spells plaintiff's name as Zagarella, as opposed to the spelling of the name used in the caption, Zagerella. The after consideration of defendants' objection thereto (Docket No. 35), Report and Recommendation is accepted and adopted.

NMG/ton, USDJ 7/9/19